IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4724 OF 2007

Kashyap M. Tanna ....Petitioner.
V/s
Mr.P.S.Ahire & Ors... ....Respondents.

Smt.Sumedha Rao, Adv. For the petitioner.

Ms.V.S.Mhaispurkar, Adv. For respondent No.1.

CORAM: A.P.DESHPANDE, J.
24/7/07

PC:

Learned counsel in this petition question the legality and validity of an order passed by the Deputy Registrar passed under section 9 of the Cooperative Societies Act, rejecting the proposal moved by the petitioner for registration of cooperative society. Learned counsel for the petitioner pointed out from the order passed by this Court dated 19.3.2004 in Notice of Motion No.3049/98 in Civil Suit No.4386/98 that the Receiver was appointed in relation to shop/office premises which may be found unsold on 11.1.89 except shop Nos.17 and 18 which were in possession of the respondent. In the submission of the learned counsel the Receiver has erroneously dispatched a letter to the Deputy Registrar, inter alia, pointing out therein that the Receiver has taken the formal possession of the suit property. Even the said communication makes a mention about

the appointment of the Receiver being in relation to unsold shops/office premises. In the submission of the learned counsel the Deputy Registrar being influenced by the said communication from the Receiver has refused to grant registration to the petitioner as cooperative society.

2. The impugned order passed under section 9 of the act refusing to register the cooperative society is appealable under section 152 of the Maharashtra State Cooperative Societies Act. Hence in view of an alternate statutory remedy in the form of an appeal being available to the petitioner I decline to interfere with the impugned order. However it is made clear that all contentions raised by the petitioner herein are left open to be agitated before the Appellate Authority. Needless to mention that the said contentions cane be dealt with by the Appellate Authority. Learned counsel points out that on account of pendency of writ petition in this Court the period of limitation for filing an appeal has expired. If the petitioner/appellant moves an application seeking condonation of delay same shall be considered by the Appellate Authority bearing in mind the fact of pendency of writ petition in this Court.

24.7.07